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EXAMINER

STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,383

Applicant(s)

BYE, JONATHAN

Examiner

Johnna R Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-98 and 100-218 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The following is a first Office Action upon examination of application number.

Claims are pending and have been examined on the merits discussed below.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 6, 2004, has been entered.

Response

3. Examiner notes applicant's amendment to include displaying for a hierarchical level, but relies on the Aycock reference from the previous office actions for this teaching. Aycock's reference is directed to performance at the vendor level, which is inherently a level in the hierarchy of the supply chain. Therefore the rejection has been modified below. Furthermore, the Gilmore reference is also being upheld since Gilmore teaches performance evaluation wherein analysts can drill up or down the hierarchy of comparative information.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1- 3, 5, 7, 10, 13, 14, 16, 17, 19-22, 24, 29, 32, 33, 35, 36, 38-41, 43, 48, 51, 52, 54, 55, 57-60, 62, 67, 70, 71, 73, 74, 76, 93-97, 99, 104, 107, 108, 110, 111, 113-117, 119, 124, 127, 128, 130, 131, 133-137, 139, 144, 147, 148, 150, 151, 153-158, 160, 162, 165, 168, 169, 171, 172, 174-178, 180, 185, 188, 189, 191, 192, 194-198, 200, 205, 208, 209, 211, 212, and 214-216** are rejected under 35 U.S.C. 102(b) as being anticipated by **Aycock et al, U.S. Patent Number 5,765,138**.

As per **claim 1**, Aycock et al teaches a method of evaluating the supply base of a supply chain comprising the steps of: inputting data concerning at least one of multiple suppliers in said supply chain (column 3, lines 3-5); displaying, for a selected hierarchical level, performance indicators relating to the performance of said at least one supplier with regard to other entities in said supply chain (column 4, lines 2-6; column 9, lines 37-44 – the performance data is displayed at the vendor level in the hierarchy of the supply chain levels); and producing an evaluation score for said at least one supplier based on said inputted data (column 3, lines 3-12).

As per **claim 2**, Aycock et al teaches the performance indicators displayed in said displaying step comprise at least one of: returns, damaged returns, group sales, net sales, buying margin, achieved margin, lateness of order, and service level (column 3, lines 9-13 – the calculation performed refers to the serviceability of the vendor).

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As per **claim 3**, Aycock et al teaches the evaluation score is based on deliveries, quality, documentation, culture, and communication (column 3, lines 9-13 – the calculation performed refers to distribution and quality).

As per claim 4, teaches the evaluation score is based on pre-season and in-season deliveries.

As per **claim 5**, Aycock et al teaches the evaluation score is based upon deliveries, quality, documentation, culture, and communication (column 3, lines 9-13 – the calculation performed refers to distribution and quality).

As per claim 6, teaches the evaluation score is based on pre-season and in-season performance.

As per **claim 7**, Aycock et al teaches the evaluation comprising the further step of comparing evaluation scores for multiple suppliers (column 10, lines 5-11).

As per **claim 10**, Aycock et al teaches the evaluation comprising the further step of comparing performing indicators for multiple suppliers (column 10, lines 5-7).

As per **claim 13**, Aycock et al teaches the evaluation score is a numeric representation of performance (column 7, lines 3-13).

As per **claim 14**, Aycock et al teaches the numeric representation is on a scale of 1 to 10 (column 7, lines 3-13 – the response schedule identifies 10 possible items, a point is awarded for each item identified in the response).

As per **claim 16**, Aycock et al teaches the step of providing for input of anecdotal information (Column 13, lines 5-12 – the supplier provides responses to questions which are generated in a word processing-based document).

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As per **claim 17**, Aycock et al teaches the step of linking the evaluation score to a product type (column 9, line 59 – column 10, line 5).

As per **claim 19**, Aycock et al teaches the step of restricting the inputting step to authorized personnel (column 10, lines 55-67 – upon receiving the proper access code, the supplier can input information).

As per **claim 20**, it is the computer readable medium having the computer-executable instructions for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 20.

Claims 21, 22, 24, 26, 29, 32, 33, 35, 36, 38 receive the same analysis as applied to claims 2, 3, 5, 7, 10, 13, 14, 16, 17, 19 above.

As per **claim 39**, it is the computer readable medium having the computer-executable modules/components for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 39.

Claims 40, 41, 43, 45, 48, 51, 52, 54, 55, 57 receive the same analysis as applied to claims 2, 3, 5, 7, 10, 13, 14, 16, 17, 19 above.

As per **claim 58**, it is the system of the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 58.

Claims 59, 60, 62, 64, 67, 70, 71, 73, 74, 76 receive the same analysis as applied to claims 2, 3, 5, 7, 10, 13, 14, 16, 17, 19 above.

As per **claim 93**, Aycock et al teaches receiving data concerning at least one of a plurality of suppliers (column 3, lines 3-13); receiving a request relating to at least one supplier of a supply chain (column 4, lines 2-6); and generating, for a selected hierarchical level, at least one performance indicator of the at least one supplier with

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respect to at least one other supplier (column 9, lines 37-44 - the performance data is displayed at the vendor level in the hierarchy of the supply chain levels). Hence, the same evaluation as applied to claim 1 above, is applied to claim 93.

Claims 94-97, 101, 104, 107, 108, 110, 111 receive the same analysis as applied to claims 1, 2, 3, 5, 7, 10, 13, 14, 16, 17 above.

As per **claim 113**, it is the computer readable medium having computer executable instructions for performing the method of **93**; therefore the analysis as applied to claim 93 above is applied to claim 113.

Claims 114, 115, 116, 117, 119, 124, 127, 128, 130 and 131 receive the same analysis as applied to claims 94, 95, 96, 97, 99, 104, 107, 108, 110, 111 above.

As per **claim 133**, it is the computer readable medium having computer executable modules/components for performing the method of **claim 93**; therefore the analysis as applied to claim 93 above is applied to claim 133.

Claims 134, 135, 136, 137, 139, 144, 147, 148, 150, 151 receive the same analysis as applied to claims 94, 95, 96, 97, 99, 104, 107, 108, 110, 111 above.

As per **claim 153**, the recited step of "logging into a system" constitutes the same limitation as addressed in claim 19 that recites providing "restricted access". Furthermore, claim 19 depends from claim 1 which recites the steps that are equivalent to the steps recited in claim 153. Therefore the analysis as applied to claims 1 and 19 is applied to claim 153.

As per **claim 154**, Aycock teaches the performance information includes at least one of actual evaluations, supplier information, teams view evaluations and bulletin board data (column 10, lines 55-67 – once the system is accessed, one can access

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databases of the supplier evaluation system to receive information on performance reports or product updates).

Claims 155, 156, 157, 158, 160, 162, 165, 168, 169, 171, 172 receive the same analysis as applied to claims 1, 2, 3, 5, 7, 10, 13, 14, 16, 17 above.

As per **claim 174**, it is the computer readable medium having computer-executable instructions for performing the steps of claim 153. Therefore the analysis as applied to claim 153 is applied to claim 174.

Claims 175, 176, 177, 178, 180, 185, 188, 189, 191, 192 receive the same analysis as applied to claims 155, 156, 157, 158, 160, 162, 165, 168, 169, 171, 172 above.

As per **claim 194**, it is the computer readable medium having computer executable modules/components for performing **claim 153**. Therefore the analysis as applied to claim 153 above is applied to claim 194.

Claims 195, 196, 197, 198, 200, 205, 208, 209, 211, 212 receive the same analysis as applied to claims 155, 156, 157, 158, 160, 162, 165, 168, 169, 171, 172 above.

As per **claim 214**, Aycock et al teaches determining a criterion to gauge the performance indicators (column 6, lines 37-54 – performance is given a specific level or numeric representation based on certain criterion).

As per **claim 215**, Aycock et al teaches selecting the supply chain from a plurality of supply chains (column 9, lines 37-58 – the selection of the supplier is made from a plurality of suppliers in the database).

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As per **claim 216**, Aycock et al teaches displaying the performance indicators are presented by a level (column 6, lines 37-54 – performance is given a specific level or numeric representation based on certain criterion).

6. **Claims 1, 2, 7-9, 11, 12, 15, 18, 20, 26-28, 30, 31, 34, 37, 39, 45-47, 49, 50, 53, 56, 58, 64-69, 72, 75, 93, 94, 96, 101-103, 105, 106, 109, 112-114, 116, 121-123, 125, 126, 129, 132-134, 136, 141-143, 145, 146, 149, 152**, are rejected under 35 U.S.C. 102(b) as being anticipated by **Gilmore, Jr. U.S. Patent No. 6,008,817**.

As per **claim 1**, Gilmore, Jr. teaches a method of evaluating the supply base of a supply chain comprising the steps of: inputting data concerning at least one of multiple suppliers in said supply chain (column 3, lines 35-36); displaying, for a selected hierarchical level, performance indicators relating to the performance of said at least one supplier with regard to other entities in said supply chain (column 3, lines 44-52 – analysts can drill up or down the hierarchy of comparative information); and producing an evaluation score for said at least one supplier based on said inputted data (column 3, lines 41-43).

As per **claim 2**, Gilmore, Jr. teaches the performance indicators displayed in said displaying step comprise at least one of: returns, damaged returns, group sales, net sales, buying margin, achieved margin, lateness of order, and service level (column 7, lines 4-9 – performance indicator such as maintenance expenses (service level) is one of the components used to evaluate automobile suppliers).

As per **claim 7**, Gilmore, Jr. teaches the evaluation comprising the further step of comparing evaluation scores for multiple suppliers (column 7, lines 26-32).

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As per **claim 8**, Gilmore, Jr. teaches the comparison in tabular form (column 3, lines 6-10).

As per **claim 9**, Gilmore, Jr. teaches the comparison in graphical form (column 3, lines 44-46).

As per **claim 11**, Gilmore, Jr. teaches the performance indicators are displayed in tabular form (column 3, lines 6-10).

As per **claim 12**, Gilmore, Jr. teaches the performance indicators are displayed in graphical form (column 3, lines 44-46).

As per **claim 15**, Gilmore, Jr. teaches the evaluation score is represented in a scale of colors indicating the overall rating of the supplier (column 7, lines 26-32).

As per **claim 18**, Gilmore, Jr. teaches the step of ranking multiple ones of the suppliers by the evaluation scores (column 7, lines 49-54).

As per **claim 20**, it is the computer readable medium having the computer-executable instructions for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 20.

Claims 26, 27, 28, 30, 31, 34 and 37 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

As per **claim 39**, it is the computer readable medium having the computer-executable module/component for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 39.

Claims 45, 46, 47, 49, 50, 53, 56 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

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As per **claim 58**, it is the system of the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 58.

Claims 64, 65, 66, 67, 68, 69, 72, 75 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

As per **claim 93**, Gilmore, Jr. teaches receiving data concerning at least one of a plurality of suppliers (column 3, lines 3-13); receiving a request relating to at least one supplier of a supply chain (column 4, lines 2-6); and generating at least one performance indicator of the at least one supplier with respect to at least one other supplier (column 9, lines 37-44). Hence, the same evaluation as applied to claim 1 above, is applied to claim 93.

Claims 94, 96, 101, 102, 103, 105, 106, 109, 112 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

As per **claim 113**, it is the computer readable medium having computer executable instructions for performing the method of **claim 93**. Therefore the analysis as applied to claim 93 above is applied to claims 113.

Claims 114, 116, 121, 122, 123, 125, 126, 129, 132 receive the same analysis as applied to claims 94, 96, 101, 102, 103, 105, 106, 109, 112 above.

As per **claim 133**, it is the computer readable medium having computer executable modules/components for performing the method of **claim 93**. Therefore the analysis as applied to claim 93 above is applied to claim 133.

Claims 134, 136, 141, 142, 143, 145, 146, 149, 152 receive the same analysis as applied to claims 94, 96, 101, 102, 103, 105, 106, 109, 112 above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 163, 164, 166, 167, 170, 173, 183, 184, 186, 187, 190, 193, 203, 204, 206, 207, 210 and 213** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Aycock et al**, U.S. Patent No. 5,765,138 in view of **Gilmore, Jr.** U.S. Patent No. 6,008,817.

As per **claims 163, 164, 166, 167, 170, 183, 184, 186, 187, 190, 203, 204, 206, 207 and 210** Aycock et al teaches all the limitations of these claims as applied to their respective base claims as discussed above, but does not explicitly teach the display of information in tabular form, graphical form or on a scale of colors indicating rating. Gilmore, Jr. teaches the display of information in tabular form (column 3, lines 6-10), graphical form (column 3, lines 44-46) and by color (column 7, lines 26-32). It is old and well known in the art that information can be displayed in three forms, text, tabular or graphical. Therefore it would have been obvious to one of ordinary skill in the art to display the performance information of Aycock et al as the performance information is displayed in Gilmore, Jr. The motivation would be to compile performance data and show the data in a simplified, apparent way, such as tables, graphs or color scale.

As per **claims 173, 193 and 213**, Aycock et al teaches all the limitations of claims 173, 193 and 213 as applied to their respective base claims as discussed above, but does not specifically teach ranking multiple suppliers by score. Gilmore, Jr. teaches the step of ranking multiple ones of the suppliers by the evaluation scores (column 7, lines 49-54).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ranking of Gilmore, Jr. in the performance evaluation of Aycock et al. The motivation would be to present the performance data in a well organized manner, which would make the task of selecting the best supplier much simpler.

9. **Claims 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91 and 92** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Aycock et al, U.S. Patent No. 5,765,138** in view of **James et al.**

As per **claims 77, 81, 85 and 89**, Aycock et al. teaches all the limitations of these claims as applied to claims 1, 20, 39 and 58 above. Aycock et al does not teach providing a bulletin board so users can communicate to assess and evaluate the supply base. Examiner takes Official Notice that it is notoriously old and well known in the art to use electronic bulletin board systems (BBS) to share common information among a group of users. For instance, USENET newsgroups have been used for over a decade to provide a common forum to post important messages between the users to share a particular topic. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include an electronic bulletin board in Aycock since Aycock already teaches sharing information over a computer network and BBS, as it is notoriously well known in the art at the time the invention was made, provides for a simple, mass information dissemination format so users can read and provide immediate feedback on the issue at hand.

As per **claims 78, 79, 80, 82, 83, 84, 86, 87, 88, 90, 91 and 92**, these are inherent administrative procedures for an electronic bulletin board system. See, for example,

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James et al reference ("An Exploratory Study of the Perceived Benefits of Electronic Bulletin Board Use and Their Impact on Other Communication Activities") cited herewith.

10. Claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199, 201 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al, U.S. Patent No. 5,765,138.

As per claims **4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199 and 201**, Aycock et al does not specifically teach the evaluation score based on pre-season and in-season performance, however, Official notice is taken that it is well known in the art of supply chain management that the evaluation of a supplier would take into account pre-season and in-season performance. In any supply chain where products are being manufactured or sold, seasons play a big role. For example, in the production of bathing suits, there would be a greater demand in the months leading to summer, therefore, the motivation to include seasonal performance is that it is important to see how well the suppliers in the supply chain can react to fluctuations in demand.

11. Claims 217 and 218 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al, U.S. Patent No. 5,765,138 in view of Powers et al, U.S. Patent No. 5,684,964.

As per **claim 217**, Aycock does not explicitly teach hierarchical levels wherein one is selected from a department level, a division level, and a company level. Aycock teaches viewing performance data across one level. Powers et al teaches the concept of

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viewing performance data at different levels so that management can determine which levels have more needs. Since both Aycock and Powers teach methods of monitoring performance of an organization of people at a level, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a hierarchical view of the performance of the supply chain organization to allow for more in depth knowledge as to where performance is lacking throughout the organization (supply chain).

As per **claim 218**, Aycock teaches comparing vendor performance wherein it is inherent that vendors would be in the same level of the supply chain, but does not explicitly teach comparing performance of at least one supplier at a first hierarchical level with another supplier at another hierarchical level. Powers et al teaches the concept of viewing performance data at different levels so that management can determine which levels have more needs, but does not explicitly teach comparing across levels. It would have been obvious to one of ordinary skill in the art to compare performance across hierarchical levels to gain a more insightful view of the organization to determine which level of the organization is in need of improvement thereby resulting in a more efficient organization. Since both Aycock and Powers teach methods of monitoring performance of an organization of people at a level, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a hierarchical view of the performance of the supply chain organization to allow for more in depth knowledge as to where performance is lacking throughout the organization (supply chain).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Martin et al, U.S. Patent No. 6,029,140, a computer system that reports product delivery dates.

Rohbe's Supplier Analysis System – a supplier performance reporting and measurement software.

Urasaki et al, JP 2001297185A – a supply chain evaluation system.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R Stimpak whose telephone number is 703-305-4566. The examiner can normally be reached on M-F 8am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Js

June 22, 2004

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A handwritten signature in black ink, appearing to read 'Tariq R. Hafiz', is positioned above the printed name.

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600